

Attorney Docket No. 010027

REMARKS

Claims 1-58 are pending in the present application, of which claims 1, 15, 20, 26, 30, 44, 49 and 55 are independent. Claims 30-43 and 49-54 have been cancelled. Also, claims 44-48 and 55-58 have been amended to more clearly define the claimed subject matter.

After entry of the above amendments, claims 1-29, 44-48 and 55-58 are pending in the present application, of which claims 1, 15, 20, 26, 44 and 55 are independent. Applicants believe that the present application is in condition for allowance, which prompt and favorable action is respectfully requested.

I. REJECTION UNDER 35 U.S.C. §101

The Examiner rejected claims 15-19, 26-29, 44-48 and 55-58 as non-statutory subject matter.

More particularly, the Examiner states that the independent claim 15 and 26 recite non-statutory subject matter because the claims recite methods that need no implementation on a computer or a machine to carry out the functions of the methods. Applicants respectfully disagree.

As claimed, independent claim 15 recites:

"generating a digital signature; generating a secure identifier as a function of the time element, the key identifier, the digital signature; and emitting the secure identifier."

Applicant submits that a machine is needed to generate the digital signature and secure identifier as claimed. Also, a machine is needed to emit the secure identifier.

Similarly, independent claim 26 recites:

"receiving a secure identifier, the secure identifier comprising a digital signature, a key identifier, and a time identifier."

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Applicant submits that a machine is needed to receive a secure identifier as claimed.

Therefore, Applicant submits that claims 15 and 26 are directed to statutory subject matter. Also claims 16-19 and 27-29 are directed to statutory subject matter as dependent on claims 15 and 26, respectively. Additionally, as amended, independent claims 44 and 55 recite structure.

Accordingly, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. §101 for at least the foregoing reasons.

II. REJECTION UNDER 35 U.S.C. §102

The Examiner rejected claims 1-2, 4-19, 30-31, 33-48 under 35 U.S.C. §102(e) as being allegedly anticipated by U.S. Patent No. 6,463,537 issued to Tello (hereinafter "Tello"). The rejection of claims 30-31 and 33-43 are moot since the claims have been cancelled. The rejection of claims 1-2, 4-19 and 44-48 is respectfully traversed in its entirety.

To anticipate a claim under 35 U.S.C. §102(e), the reference must teach every element of the claim and "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." (see MPEP §2131).

Tello discusses a system that deters physical theft of a computer by rendering it inoperable in the absence of the proper authentication and identification procedures. Particularly, it teaches a verifying the identity of authorized users through smart card identification performed at the BIOS level (col. 4, lines 61-63). Tello teaches personalizing the smart card with a unique hash number or digital signature by basing the hash number calculations on information provided by the holder of the smart card. To authenticate, the smart card is logically connected to the computer which verifies the hash number (col. 5, lines 15-35).

Therefore, Tello discloses using a digital signature. However, upon reading of the portions cited by the Examiner, Applicant submits that Tello does not teach or even suggest a digital signature being a function of a private key and a time element. Similarly, it does not teach or even suggest a secure identifier as a function of a time identifier.

More particularly, with respect to independent claim 1, Tello does not disclose a signature generator operable to generate a digital signature, the digital signature being a function of a private key and a time element. Additionally, Tello does not disclose an emitter as claimed.

With respect to independent claims 15 and 44, Tello does not disclose a method or means for generating a secure identifier as a function of a time element, a key identifier, digital signature. Additionally, Tello does not disclose a method or means for emitting the secure identifier.

Since Tello does not teach every element of the claims, Applicant submits that independent claims 1, 15 and 44 are allowable. Also, claims 2, 4-14, 16-19 and 45-48 depend from and include all the elements cited in the independent claims 1, 15 and 44, respectively. Accordingly, Applicant submits that these claims are believed to be allowable based on their dependency from an allowable base claim as well as other novel features included therein.

For at least the foregoing reasons, Applicant respectfully requests a withdrawal of the rejection under 35 U.S.C. §102.

III. REJECTION UNDER 35 U.S.C. §103

The Examiner rejected claims 3, 32, 20-29, 49-58 under 35 U.S.C. §103 as being unpatentable over Tello in view of U.S. Patent No. 5,784,464 issued to Akiyama et al. (hereinafter "Akiyama"). The rejection of claims 32 and 49-54 is moot since the claims are cancelled. The rejection of claims 3, 20-29 and 55-58 is respectfully traversed in its entirety.

To establish a prima facie case of obviousness for a claimed invention, all the claim elements must be taught or suggested by the prior art. (MPEP 2143.03)

Akiyama discusses a client authenticating system that dynamically creates identification data used for authentication between a user (client) and a service provider (col. 2, lines 10-16). Upon review of the portions cited by the Examiner, Applicant submits that Akiyama does not teach or even suggest a secure identifier comprising a digital signature, a key identifier, and a time identifier.

Therefore, neither Tello as discussed above nor Akiyama disclose a secure identifier as in independent claims 20, 26 and 55.

Since neither Tello nor Akiyam disclose all the elements of claims 20, 26 and 55, Applicant respectfully submits that the Examiner has failed to set forth a prima facie case of obviousness. Also, claims 21-25, 27-29 and 56-58 depend from and include all the elements cited in the independent claims 20, 26 and 55, respectively. Accordingly, Applicant submits that these claims are believed to be allowable based on their dependency from an allowable base claim as well as other novel features included therein.

With respect to claim 3, Applicant submits that Tello does not disclose every element of claim 3 based on its dependency from claim 1 as well as other novel features included therein.

For at least the foregoing reasons, Applicant respectfully requests a withdrawal of the rejection under 35 U.S.C. §103.

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CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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